

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MILES DAVIS,

Plaintiff,

v.

Case No. 19-13062
Honorable Linda V. Parker

ANTONIO ALVAREZ, et al.,

Defendants.

_____/

**OPINION AND ORDER (1) ADOPTING MAGISTRATE JUDGE’S
REPORT AND RECOMMENDATION [ECF NO. 25] AND (2) DENYING
MOTION TO QUASH SERVICE & DISMISS COMPLAINT [ECF NO. 22]**

On October 17, 2019, Plaintiff Miles Davis filed this action under 42 U.S.C. § 1983 against Trinity Services Group (“Trinity”) and two of its employees, Antonio Alvarez and Jim Perry. (ECF No. 1.) Plaintiff alleges Defendants served him food that contained rocks and other foreign objects, which violated his Eighth Amendment right to be free from cruel and unusual punishment. (*Id.*)

On December 3, 2019, Davis moved for Trinity to provide Alvarez’s last known address to him or to the U.S. Marshal so that Alvarez could be served. (ECF No. 12.) Defendants Alvarez and Perry subsequently moved to quash service and dismiss the Complaint against them because they were not served within 90 days as required by Federal Rule of Civil Procedure 4(m). (ECF No.

22.) The Court referred this matter to Magistrate Judge Elizabeth A. Stafford for all pretrial proceedings pursuant to 28 U.S.C. § 636(b)(1)(A)-(B). (ECF No. 13.)

On April 16, 2020, Magistrate Judge Stafford granted Plaintiff's motion, ordering Trinity to disclose the addresses of both Alvarez and Perry to the U.S. Marshal, and issued a Report and Recommendation ("R&R"), recommending that the Court deny Defendants' Motion to Quash Service & Dismiss Complaint. (ECF Nos. 24, 25.) In the R&R, Magistrate Judge Stafford concluded that, since Plaintiff proceeds *in forma pauperis*, the more prudent course of action is to try to effectuate proper service as to Alvarez and Perry. (ECF No. 25 at Pg. ID 107-108.)

At the conclusion of the R&R, Magistrate Judge Stafford informed the parties that they must file any objections to the R&R within fourteen days. (*Id.* at Pg. ID 109.) She further advised that, "[i]f a party fails to timely file specific objections, any further appeal is waived." (*Id.* (citation omitted).) Neither party objected, and the time to do so has expired.

The Court reviewed the April 16, 2020 R&R and concurs with the conclusions reached by Magistrate Judge Stafford. The Court therefore adopts the R&R (ECF No. 25) and denies Defendants' Motion to Quash Service & Dismiss

Complaint (ECF No. 22).

IT IS SO ORDERED.

s/ Linda V. Parker
LINDA V. PARKER
U.S. DISTRICT JUDGE

Dated: July 15, 2020

I hereby certify that a copy of the foregoing document was mailed to counsel of record and/or pro se parties on this date, July 15, 2020, by electronic and/or U.S. First Class mail.

s/ R. Loury
Case Manager